

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Subsection 362
Title 14, California Code of Regulations
Re: Nelson Bighorn Sheep

- I. Date of Initial Statement of Reasons: December 30, 2002
- II. Date of Pre-adoption Statement of Reasons: March 1, 2003
- III. Date of Final Statement of Reasons: April 9, 2003
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 7, 2003
Location: Sacramento, California
 - (b) Discussion: Date: April 4, 2003
Location: Visalia, California
 - (c) Adoption Hearing: Date: May 8, 2003
Location: Riverside, California
- V. Update:

No modifications were made to the originally proposed language of the Initial Statement of Reasons.
- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

No public comments, written or oral, were received during the public comment period.
- VII. Location and Index of Rulemaking File:

A rulemaking file with attached file Index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game
1812 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

1. Number of Tags

An alternative was considered that involved issuing fewer tags to take Nelson bighorn rams. The current statutory restriction allows a quota of no more than 15 percent of the mature rams observed in the designated hunt zones. This is a very conservative harvest ceiling. This alternative was rejected because the demand for bighorn sheep hunting is high and the proposed quota changes more closely meet program objectives.

An alternative that involved translocating mature rams in lieu of removing them by hunting was considered. Since the Department currently has an active and ongoing bighorn sheep translocation program, relocating additional rams would not improve the program. This alternative would not address the Legislature's policy to provide diversified uses of wildlife, including hunting. Additionally, this alternative would not achieve the project objective of providing public hunting opportunities.

A "no project" or "no hunting" alternative also was considered. This alternative would continue the translocation of bighorn sheep to available historical habitat, just as would occur under the proposed project. Under this alternative, it is possible that support for bighorn sheep management programs by interested conservation groups and hunters would decline. This decline could result in reducing the value of bighorn sheep to a segment of the public by unnecessarily preventing the hunting of a limited number of mature rams. In addition, it would not address the Legislature's policy to provide diversified uses of wildlife, including hunting. Therefore, this alternative would not achieve the project objectives.

(b) No Change Alternative:

1. Number of Tags

The no-change alternative was considered and found inadequate because it would not attain the project objective. Based on the intent of Section 4902 of the Fish and Game Code and the results of population surveys, it is necessary to adjust the number of tags available in all hunting zones as the status of the sheep populations changes.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made.

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States:

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on Private Persons:

The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

**Updated Informative Digest
(Policy Statement Overview)**

Existing regulations provide for limited hunting of Nelson bighorn rams in six hunt zones. The proposed change adjusts the number of tags based on annual bighorn sheep population surveys conducted by the Department. The following table reflects the current and proposed Nelson bighorn sheep tag allocations. The proposed number of tags was determined using the procedure described in Fish and Game Code section 4902.

NELSON BIGHORN SHEEP HUNT ZONES	Current 2002 Tag Allocations	Proposed 2003 Tag Allocations
Zone 1 - Marble/Clipper Mountains	3	3
Zone 2 - Kelso Peak/Old Dad Mountains	3	3
Zone 3 - Clark/Kingston Mountain Ranges	2	1
Zone 4 - Orocopia Mountains	1	1
Zone 5 - San Gorgonio Wilderness	2	0
Zone 6 - Sheep Hole Mountains	1	1
Open Zone Fund-Raising Tag	2	1
TOTALS:	14	10

The number of tags allocated for each of the six hunt zones is based on the results of the Department's 2002 estimate of the bighorn sheep population in each zone. Tags are proposed to be allocated to allow the take of less than 15 percent of the mature rams estimated in each zone. While no tag quota is proposed specifically for hunting Zone 5, the area remains available for the hunter who purchases the Open Zone Fund-Raising Tag.

The Commission, at its May 8, 2003 meeting, adopted the proposed changes, including the tag allocations for each zone.

Title 14, Section 362, California Code of Regulations is amended to read as follows:

§362. Nelson Bighorn Sheep.

(a) Areas:

(1) Zone 1--Marble/Clipper Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the National Trails Highway; north on Kelbaker Road to the junction with Interstate Highway 40; east on Interstate Highway 40 to the intersection with National Trails Highway; southwest on National Trails Highway to junction with Kelbaker Road.

(2) Zone 2--Kelso Peak and Old Dad Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the Union Pacific Railroad in Kelso; southwest along the Union Pacific Railroad to intersection with unnamed road at Crucero; north on unnamed road to the junction with Rasor Road; northwest on Rasor Road to the junction with Interstate Highway 15; northeast on Interstate Highway 15 to the intersection with Cima Road; south on Cima Road to the intersection with the Union Pacific Railroad in Cima; southwest on the Union Pacific Railroad to the intersection with Kelbaker Road in Kelso.

(3) Zone 3--Clark and Kingston Mountain Ranges: That portion of San Bernardino and Inyo counties beginning at the intersection of Interstate Highway 15 and California State Highway 127 in Baker; north on California State Highway 127 to the junction with Old Spanish Gentry Road on Tecopa; southeast on Old Spanish Gentry Road to the junction with Furnace Creek Road; southeast on Furnace Creek Road to the junction with Mesquite Valley Road; north on Mesquite Valley Road to Old Spanish Trail Highway; north and east on Old Spanish Trail Highway to California/Nevada state line; southeast on California/Nevada state line to the intersection with Interstate Highway 15; southwest on Interstate Highway 15 to the junction with California State Highway 127.

(4) Zone 4--Orocopia Mountains: That portion of Riverside County beginning at the intersection of Interstate Highway 10 and Cottonwood Springs Road; east on Interstate Highway 10 to the junction with Red Cloud Mine Road; south on Red Cloud Mine Road to the junction with the Eagle Mountain Mining Railroad; southwest on the Eagle Mountain Mining Railroad to the junction with the Bradshaw Trail; southwest on the Bradshaw Trail to the Intersection with the Coachella Canal; west along the Coachella Canal to the junction with Box Canyon Road; northeast on Box Canyon Road to the junction with Cottonwood Springs Road; north on Cottonwood Springs Road to the intersection with Interstate Highway 10.

(5) Zone 5--San Gorgonio Wilderness: That portion of Riverside and San Bernardino counties beginning at the intersection of Interstate Highway 10 and California State Highway 62, west on Interstate Highway 10 to the junction with California State Highway 30; north on California State Highway 30 to the junction with California State Highway 38; east and north on California State Highway 38 to the junction with Forest Service Route 1N01; east on Forest Service Route 1N01 to its joining with Pipes Road; east on Pipes Road to the junction with Pioneertown Road; southeast on Pioneertown Road to the junction with California State Highway 62; southwest on California State Highway 62 to the intersection with Interstate Highway 10.

(6) Zone 6-- Sheep Hole Mountains: That portion of San Bernardino County beginning at the junction of California State Highway 62 and Ironage Road; northwest on Ironage Road to the intersection with Amboy Road; north on Amboy Road to the intersection with National Trails Highway; east on National Trails Highway to the junction with Saltus Road; southeast on Saltus Road to the junction with unnamed road in Saltus that runs through Cadiz Valley; southeast on unnamed road to the intersection with California State Highway 62; west on California State Highway 62 to the junction with Ironage Road.

(b) Seasons:

(1) Fund-raising Hunts: The holder of the fund-raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 through 4, and 6: Beginning the first Saturday in November and extending through the first Sunday in February.

(B) Zone 5: Beginning the third Saturday in November and extending through the third Sunday in February.

(2) Except as provided in subsection 362(b)(1), the Nelson bighorn sheep season in the areas described in subsection 362(a) shall be defined as follows:

(A) Zones 1 through 4, and 6: The first Saturday in December and extend through the first Sunday in February.

(B) Zone 5: The third Saturday in December and extend through the third Sunday in February.

(3) Except as specifically provided in section 362, the take of bighorn sheep is prohibited.

(c) Bag and possession Limit: One mature ram defined as follows: a male Nelson bighorn sheep (*Ovis canadensis nelsoni*) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing. A diagram showing the correct viewing procedure shall be distributed by the department to each successful applicant.

(d) Number of License Tags:

~~three tags valid in Zone 1~~

~~three tags valid in Zone 2~~

~~two tags valid in Zone 3~~

~~one tag valid in Zone 4~~

~~two tags valid in Zone 5~~

~~one tag valid in Zone 6~~

~~two fund-raising license tags~~

<u>NELSON BIGHORN SHEEP HUNT</u> <u>ZONES</u>	<u>Tag</u> <u>Allocations</u> <u>for 2003</u>
<u>Zone 1 - Marble/Clipper Mountains</u>	<u>3</u>
<u>Zone 2 - Kelso Peak/Old Dad Mountains</u>	<u>3</u>
<u>Zone 3 - Clark/Kingston Mountain</u>	<u>1</u>
<u>Zone 4 - Orocopia Mountains</u>	<u>1</u>
<u>Zone 5 - San Gorgonio Wilderness</u>	<u>0</u>
<u>Zone 6 - Sheep Hole Mountains</u>	<u>1</u>
<u>Open Zone Fund-Raising Tag</u>	<u>1</u>
<u>Total:</u>	<u>10</u>

(e) Conditions:

(1) Nelson bighorn rams shall only be taken between one-half hour before sunrise and one-half hour after sunset.

(2) Only methods specified in sections 353 and 354, Title 14, CCR, for taking bighorn sheep may be used.

(3) Each tagholder shall possess a spotting telescope capable of magnification of 15 power (15X), which is not affixed to a rifle, while hunting.

(4) Successful general tagholders shall present the head and edible portion of the carcass of a bighorn ram to the department's checking station within 48 hours after killing the animal. All successful tagholders shall notify the department's Bishop office by telephone at (760) 872-

1171 or (760) 240-1372 within 24 hours of killing the animal and arrange for the head and carcass to be examined.

(5) All successful bighorn sheep tagholders shall make the horns of each ram available to the department to be permanently marked in the manner prescribed by the department for identification purposes within 48 hours of killing the animal. The purpose of the permanent marking shall be to identify Nelson bighorn rams which were legally taken and which may be transported and possessed outside the areas described in subsection 362(a).

(6) The department reserves the right to take and use any part of the tagholder's bighorn ram, except the horns, for biological analysis as long as no more than one pound of edible meat is removed.

NOTE: Authority cited: Sections 200, 202, 203, 220, 1050 and 4902, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 1050, 3950 and 4902, Fish and Game Code.